IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A. No.220 of 2023

Vishwanath Prakash,aged about 38 years, son of Shri Gopal Ram, resident of Village-Barkatoli, PO: Hehal, PS: Sukhdeonagar, District Ranchi (Jharkhand) …… Appellant

Versus

Jayanti Kumari, aged about, wife of Vishwanath Prakash, daughter of Shri Balak Mahto, resident of Balumath Bus Stand, PO & PS: Balumath, District Latehar (Jharkhand) at present resident of Kasturba Gandhi Awasiya Vidyalaya, Bhandra, PO & PS: Bhandra, District: Lohardaga (Jharkhand). …….Respondent

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CORAM:HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant(s) : Mr. Sumit Prakash, Advocate
For the Respondent(s): Mr. Rajesh Kumar Mahtha, Advocate

CAV ON:04.12.2025 **PRONOUNCED ON:06/01/2026**

1. The instant appeal has been filed on behalf of the appellant/plaintiff under Section 19(1) of the Family Courts Act, 1984 against the order/judgment dated 14.03.2023 [decree signed on 17.03.2023] passed by the learned Principal Judge, Family Court, Lohardaga in Original Suit No. 39 of 2022, whereby and whereunder, the said Suit filed by the appellant-husband under the provisions of Sections 27(1)(d) of Special Marriage Act, 1954 has been dismissed.

2. The brief facts of the case as pleaded in the plaint having been recorded by the learned Family Judge, needs to be referred herein as:

   (i) The marriage of the appellant/plaintiff Vishwanath Prakash was solemnized with defendant on 11.12.2007 at the office of District Marriage Registrar, Ranchi. After marriage, respondent came to her matrimonial house and started residing with her husband. Out of said wedlock, one son, namely, Om Prakash

was born on 16.12.2008.

(ii) It is alleged that after few months of marriage, the behaviour and attitude of the respondent became very cruel and arrogant as she neither took care of household work nor of her in-laws or husband. A *panchayti* was held in the village in year 2018. The respondent always threatened the plaintiff/husband and in-laws to implicate them in false and fabricated case, if they interfere in her affairs. On that the plaintiff informed this matter regarding rude and cruel behaviour of the respondent to her parents but they told that after marriage it is your responsibility to take care of the respondent. Earlier on many occasions, she left her matrimonial house with her jewellries and clothes without informing to any one and gone where ever she wants and even after birth of son she left her house.

(iii) It has further been stated that on 30.08.2011, the respondent left her matrimonial house after quarreling with petitioner and in-laws and saying that she was going to her *maika* forever and she did not return back. Now she does not want to live with her husband and she break all her matrimonial ties with the plaintiff. There is no chance to live together as husband and wife and their marriage has irretrievably been broken down.

(iv) Since 2011, the defendant used to create disturbance and pressure upon the petitioner by way of mental and physical cruelty and she has started neglecting the petitioner. She always made pressure upon the plaintiff to leave Ranchi and his parents

and live with her family at village Balumath, District-Latehar. The child of the petitioner is not allowed by the respondent to come to him, even if the petitioner takes the child on his lap, she snatched away the child and beats him mercilessly. The petitioner tried his best to convince the respondent/wife to live in harmonious cordial atmosphere with the petitioner but she was not ready to live with the petitioner.

3. On the aforesaid ground of cruelty, the appellant-husband has prayed for a decree of dissolution of the marriage between him and the respondent-wife, accordingly, the suit being Original Suit No.39 of 2022 for dissolution of marriage has been preferred.

4. Accordingly, after issuance of notice the respondent-wife appeared and contested the suit by denying all the allegations levelled against her by the plaintiff-husband. It has been stated that the suit has been filed on false, frivolous and concocted grounds and is fit to be dismissed.

5. She has admitted the factum of her marriage which was solemnized with the petitioner/husband on 11.12.2007 under Special Marriage Act, 1954. After marriage, the respondent/wife was taken by the petitioner in Lower Burdman Compound in a rented house where the petitioner was residing before marriage as because the marriage of the respondent and petitioner is inter-caste, where the respondent and petitioner lived as wife and husband and consummated their marriage. Later on, they shifted in Nagri and both started to teach in a school. Thereafter, they shifted in Devi Mandap Road, Ranchi where they resided upto January 2016. In the

meantime, on 16.12.2008 a son namely Om Prakash born out of their wedlock.

(i) It is totally false to alleged that the behaviour and attitude of the respondent at her sasural became very cruel and arrogant rather since the marriage the respondent has been co-operative and following all the directions of the petitioner and obeying all family and conjugal obligation with full love and affection. She also looked after her child with full love and affection and nurtured carefully. Not only the respondent cared to the petitioner and his family but also, she provided all her love, affection and respect to them and she also discharged all house hold work and obligation of family carefully and co-operatively till joining her service as a contract teacher in Kasturba Gandhi Awashiya Balika Vidhyalaya, Kuru.

(ii) After birth of her son, the plaintiff/husband started to quarrel and threaten her again and again to divorce but despite of all torture and desertion at the hand of the plaintiff/husband, the respondent managed herself and she co-operated the petitioner in all manner with a friendly atmosphere and since marriage the respondent is caring the petitioner and his family and also provided financial assistance. When the behaviour of the petitioner became so cruel and arrogant towards the respondent and her child then on 02.12.2018 a village panchayat was held in Kathotia Mandir Chatra in presence of the relatives and well-wishers of the petitioner and respondent and in the said panchayat the petitioner was told to live either in Lohardaga with the respondent or his parent in Chatra. The petitioner had given undertaking in panchayat to give Rs. 4000/- towards the maintenance and education of his son but he never gave any amount.

(iii) However, when the respondent joined as a contract teacher in Kashturba Gandhi Aawashiya Vidhyalaya her remuneration and salary was taken by the plaintiff/husband by this or that way and for sake of the family she provided all financial assistance. Not only in the year 2012 the respondent provided financial assistance in purchasing motorcycle but also provided Rs. 10,000/- for his networking job in the year 2013. In the year 2013 she provided 35,000/- for his job. When she was transferred to Bhandra, Lohardaga she is residing in hostel of the school as per norms of her service under knowledge and consent of the plaintiff/husband and his family but as and when the respondent got leave, she used to come her in-laws house and accompany with the petitioner and discharged her marital obligation. Apart from that in February 2016 the petitioner has taken Rs, 20,000/- for business of LED Bulb and in April 2016 has taken Rs. 64,000/- to purchase an Auto-Rickshaw from the respondent. In the year 2016 after grih-pravesh in January he has taken huge amount from the respondent, behaviour and conduct of the petitioner towards the respondent all of a sudden changed and became very rude and arrogant and started to neglect and deserted the respondent mentally and physically.

(iv) In the year 2017 the respondent was deserted then she informed to the Mahila Thana Ranchi and thereafter a counseling was held in Mahila Thana Ranchi and they negotiated the controversies but again in the year 2018 the petitioner started deserting and assaulting the respondent on several occasions. Then village panchayat on 02.12.2018 was held in Chatra where the petitioner undertook to not disturb or quarrel with the

respondent. After panchayat, the petitioner kept the respondent peacefully but when the respondent came in her in-law house Barka Toli Ranchi in winter vacation 2019 and stayed their till 6th January 2020 the petitioner and his mother and father not only abused her with filthy languages but also assaulted in order to leave the house of the petitioner. The matter was reported to the Mahila Thana, Ranchi by the respondent.

6. Thereafter, the evidences have been laid on behalf of both the parties and the issues were framed by learned Family Court and thereafter, the judgment dated 14.03.2023 has been passed by the learned Principal Judge, Family Court, Lohardaga dismissing the Suit brought by the petitioner/appellant, namely, Vishwanath Prakash, under sections 27(i) (d) of the Special Marriage Act, 1954 and, accordingly the decree was signed on 17.03.2023.

7. The appellant-husband being aggrieved and dissatisfied with the impugned judgment dated 14.03.2023 [decree signed on 17.03.2023] passed in Original Suit No. 39 of 2022 has filed present First Appeal under Section 19(1) of the Family Courts Act, 1984.

Submission on behalf of the appellant-husband: -

8. The learned counsel appearing for the appellant-husband has taken the following grounds:

(i) There is an error in the impugned judgment passed by the learned Family judge since it is contrary to law and as such the same is not sustainable and liable to be set aside.

(ii) The learned Family Judge has failed to appreciate the fact that the respondent/wife always pressurized the appellant to leave his parents. The respondent was not allowing their son namely Om Prakash to meet his father i.e. the appellant.

(iii) Further, the learned Family Judge has failed to appreciate that the wife has left the matrimonial house in the year 2011 and the respondent/wife did not want to live with him as wife and there is no chance of her returning back.

(iv) The learned Family Judge ought to have considered the fact that the conduct of the respondent was persistent for a long period of time and the relationship between the parties has deteriorated to an extent that it is extremely difficult to live with each other.

(v) The learned Family Judge ought to have considered the fact that the marriage between the parties is now a fictitious relationships supported by a legal tie and the matrimonial bond between the parties is beyond repair.

(vi) The learned Family Judges should have taken into consideration the fact that it is not the normal wear and tear of the married life, which is under challenge but it is the deep anguish, disappointment and frustration of the appellant which has been caused by the conduct of the respondent, which is humiliating and abusive in nature.

9. The learned counsel, based upon the aforesaid grounds, has submitted that the impugned judgment and decree, therefore, needs interference said to be perverse.

Submission on behalf of the respondent- wife:

10. The learned counsel appearing for the respondent-wife has taken the following grounds:

(i) There is no error in the impugned judgement. The learned Family Judge has considered the entire issues and on the basis of evidence as laid by the parties has passed the order impugned as such same may not be interfered with.

(ii) The appellant has sought divorce on the ground that the behaviour of the respondent-wife is cruel, and has deserted the appellant without any valid ground but the learned Family Court, after taking into consideration the evidence, has dismissed the suit.

(iii) It has also been submitted that on the point of cruelty, the learned Family Court after taking into consideration the material available on record has found that the evidence of the plaintiff-husband is contradictory therefore, on the pretext of the aforesaid categorical finding of the Family Court, the impugned order requires no interference.

11.Learned counsel, based upon the aforesaid grounds, has submitted that if on that pretext, the factum of cruelty has not been found to be established, hence, the impugned judgment cannot be said to suffer from an error.

Analysis:

12. We have heard the learned counsel appearing for the parties and gone through the impugned judgment and perused the case record.

13. The learned Family Judge has formulated altogether seven issues, for ready reference the same are being quoted hereinbelow:

(i) *"Whether the present suit is maintainable in its present form?*

(ii) *Whether the petitioner has valid cause of action to file present Suit?*

(iii) *Whether the respondent is the legally wedded wife of the petitioner?*

(iv) *Whether the respondent wife has treated the petitioner husband with cruelty?*

(v) *Whether the petitioner-husband is taking advantage of his own wrong?*

(vi) *Whether the petitioner is entitled to get decree of divorce?*

(vii) *Whether the petitioner is entitled to get any other relief or reliefs as prayed for?*

14. The issue pertaining to ground for divorce is by formulating a specific issue 'whether the respondent/wife has treated the petitioner with cruelty as issue no(iv).

15. The learned Family Judge has considered the evidence adduced on behalf of the parties for deciding the issues involved in Original Suit No.39 of 2022.

16. This Court in order to appreciate the aforesaid rival submission of the learned counsel for the parties and before entering into the legality and propriety of the impugned judgment needs to discuss herein the relevant part of the evidences adduced on behalf of the parties which has been mentioned in the impugned order wherein the element of cruelty has been shown by the petitioner-husband.

17. The evidence has been laid on behalf of both the parties. Altogether four witnesses have been examined on behalf of the petitioner/appellant. Out of four witnesses, the most relevant witness is PW-1 who is the appellant himself.

18. PW-1 Vishwanath Prakash is the petitioner (appellant herein) himself has stated that after 3-4 months of marriage, the behavior of his wife became very cruel and arrogant and she never done domestic work. In the year 2018 a panchayati was held wherein she had admitted her guilt but there was no change in her behavior and when she joined Kashtruba Gandhi Awashiya Vidhyalaya as a contract teacher her behaviour became cruller and more arrogant. She used to abuse him and his mother frequently. She flatly refused to live with the appellant and threatened him to implicate in false cases.

19. PW-2 and PW-3 are husband and wife and they are neighbour of the appellant. Both of them have deposed that quarrel was taken place in between the parties.

20. PW-4 Prema Devi is mother of the plaintiff/appellant, who in her examination-in-chief has stated that she knows both the appellant and respondent and appellant/ petitioner is her son and respondent is her daughter-in-law. She further deposed that in 2007 the wedding of his son and daughter-in-law has solemnized and after 1 year of marriage one son was born out of the wedlock named, Om Prakash. She has further deposed that daughter-in-law behaves rudely and does not co-operate with her and her husband whenever they visit their daughter-in-law at Ranchi. In 2011 her daughter-in-law got a job at Kasturba Gandhi School and thereafter her behaviour towards her husband

turned rude and cruel. PW4 further deposed that her daughter-in-law abuses them.

In her cross-examination she has stated that she has no knowledge about marriage, which has been mentioned in para 2 of examination-in-chief. Further, in cross- examination at para 22, mother of the appellant/ petitioner has deposed that she has not lived for long time with defendant-wife as she only went there for treatment for 2-4 days. And during that stay she sometimes met her daughter-in-law and sometimes not.

21. It appears from the impugned judgment, that on the other hand, the respondent-wife has also examined two witnesses in support of her contention including herself as O.P.W.-1 and her son as O.P.W.- 2.

22. O.P.W-1 Jayanti Kumari is wife of respondent herself. She has stated the suit is baseless and filed on false pretext. She stated that appellant and respondent belongs to two different caste and they married in the year 2007.

23. After marriage, the respondent was taken by the petitioner in Lower Burdman Compound in a rented house where the petitioner was residing before marriage as because the marriage of the respondent and petitioner is inter-caste, where the respondent and petitioner lived as wife and husband and consummated their marriage. Later on they shifted in Nagri and both started to teach in a school. Thereafter, they shifted in Devi Mandap Raod, Ranchi where they resided upto January 2016. In the meantime on 16.12.2008 a son namely Om Prakash born out of their wedlock.

24. O.P.W-2 Om Prakash @ Krishna is son of appellant-husband and respondent-wife. O.P.W 2 has stated that he has not seen his parents fight/ quarrel.

25. The learned Family Judge has appreciated the entire facts and evidence and has come to the conclusion that the appellant-husband has failed to make the ground of cruelty and, as such, has dismissed the suit which is under challenge in the instant appeal.

26. It needs to refer herein that the fact about filing of suit on the ground of cruelty is admitted as per the evidences adduced on behalf of the appellant. The appellant-husband has tried to establish the element of cruelty upon him at the hands of the respondent-wife.

27. The appellant-husband all along has alleged the issue of cruelty which he was subjecting to by his wife as has been referred hereinabove.

28. This Court while appreciating the argument advanced on behalf of the appellant on the issue of perversity needs to refer herein the interpretation of the word “perverse” as has been interpreted by the Hon'ble Apex Court which means that there is no evidence or erroneous consideration of the evidence.

29. The Hon'ble Apex Court in ***Arulvelu and Anr. vs. State [Represented by the Public Prosecutor] and Anr., (2009) 10 SCC 206*** while elaborately discussing the word perverse has held that it is, no doubt, true that if a finding of fact is arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant material or if the finding so outrageously defies logic as to suffer from the vice of irrationality incurring the blame of being perverse,

then, the finding is rendered infirm in law. Relevant paragraphs, i.e., paras-24, 25, 26 and 27 of the said judgment reads as under:

> *"24. The expression "perverse" has been dealt with in a number of cases. In Gaya Din v. Hanuman Prasad [(2001) 1 SCC 501] this Court observed that the expression "perverse" means that the findings of the subordinate authority are not supported by the evidence brought on record or they are against the law or suffer from the vice of procedural irregularity.*
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> *25. In Parry's (Calcutta) Employees' Union v. Parry & Co. Ltd. [AIR 1966 Cal 31] the Court observed that "perverse finding" means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In Triveni Rubber & Plastics v. CCE [1994 Supp (3) SCC 665 : AIR 1994 SC 1341] the Court observed that this is not a case where it can be said that the findings of the authorities are based on no evidence or that they are so perverse that no reasonable person would have arrived at those findings.*
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> *26. In M.S. Narayanagouda v. Girijamma [AIR 1977 Kant 58] the Court observed that any order made in conscious violation of pleading and law is a perverse order. In Moffett v. Gough [(1878) 1 LR 1r 331] the Court observed that a "perverse verdict" may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Godfrey v. Godfrey [106 NW 814] the Court defined "perverse" as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper, correct, etc.*
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> *27. The expression "perverse" has been defined by various dictionaries in the following manner:*
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> *1. Oxford Advanced Learner's Dictionary of Current English, 6th Edn. "Perverse.—Showing deliberate determination to behave in a way that most people think is wrong, unacceptable or unreasonable."*
>
> *2. Longman Dictionary of Contemporary English, International Edn.*
>
> *Perverse.—Deliberately departing from what is normal and reasonable.*

3. The New Oxford Dictionary of English, 1998 Edn.

Perverse.—Law (of a verdict) against the weight of evidence or the direction of the judge on a point of law.

4. The New Lexicon Webster's Dictionary of the English Language (Deluxe Encyclopedic Edn.)

Perverse.—Purposely deviating from accepted or expected behavior or opinion; wicked or wayward; stubborn; cross or petulant.

5. Stroud's Judicial Dictionary of Words & Phrases, 4th Edn.

"Perverse.—A perverse verdict may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence."

30. Now coming to the fact of the instant case wherein, the ground for divorce has been taken on the pretext of cruelty, therefore it would be apt to discuss herein the element of cruelty and further in the light of aforesaid this Court will appreciate that whether the respondent by act of her caused cruelty upon the petitioner/appellant.

31. Since the suit for dissolution of marriage had been preferred before the learned Family Court under Section 27(1)(d) of the Special Marriage Act, 1954, therefore, it needs to refer herein that Section 27(1)(d) of the Special Marriage Act, 1954 provides that, subject to the provisions of that Act and the Rules made thereunder, a petition for divorce may be presented to the District Court either by the husband or the wife on the ground that the respondent has treated the petitioner with cruelty. For ready reference Section 27 (1) (d) is being quoted as under :

27. Divorce.— [(1)] Subject to the provisions of this Act and to the rules made thereunder, a petition for divorce may be presented to the district court either by the husband or the wife on the ground that the respondent—

(d) has since the solemnization of the marriage treated the petitioner with cruelty;

32. It needs to refer herein the pari-Materiaof Section 27 (1) (d) of Act 1954 is Section 13 (1) (i-a) Hindu Marriage Act 1955 and the Hon'ble Apex Court in the catena of judgments has elaborately discussed the word "cruelty" in light of matrimonial ties.

33. The "cruelty" has been interpreted by the Hon'ble Apex Court in the case of ***Dr. N.G. Dastane vs. Mrs. S. Dastana, (1975) 2 SCC 326*** wherein it has been laid down that the Court has to enquire, as to whether, the conduct charge as cruelty, is of such a character, as to cause in the mind of the petitioner, a reasonable apprehension that, it will be harmful or injurious for him to live with the respondent.

34. This Court deems it fit and proper to take into consideration the meaning of 'cruelty' as has been held by the Hon'ble Apex Court in **Shobha Rani v. Madhukar Reddi, (1988)1 SCC 105** wherein the wife alleged that the appellant-husband and his parents demanded dowry. The Hon'ble Apex Court emphasized that "cruelty" can have no fixed definition.

35. According to the Hon'ble Apex Court, "cruelty" is the "conduct in relation to or in respect of matrimonial conduct and in respect of matrimonial obligations". It is the conduct which adversely affects the spouse. Such cruelty can be either "mental" or "physical", "intentional" or "unintentional". For example, unintentionally waking your spouse up in the middle of the night may be mental cruelty; intention is not an essential element of cruelty but it may be

present. Physical cruelty is less ambiguous and more "a question of fact and degree."

36. The Hon'ble Apex Court has further observed therein that while dealing with such complaints of cruelty it is important for the Court to not search for a standard in life, since cruelty in one case may not be cruelty in another case. What must be considered to include is the kind of life the parties are used to, "their economic and social conditions", and the "culture and human values" to which they attach importance.

37. In ***V. Bhagat vs. D. Bhagat (Mrs.), (1994)1 SCC 337***, the wife alleged in her written statement that her husband was suffering from "mental problems and paranoid disorder". The wife's lawyer also levelled allegations of "lunacy" and "insanity" against the husband and his family while he was conducting a cross-examination. The Hon'ble Apex Court held these allegations against the husband to constitute "cruelty".

38. In ***Vijay kumar Ramchandra Bhate v. Neela Vijay Kumar Bhate, (2003)6 SCC 334*** the Hon'ble Apex Court has observed by taking into consideration the allegations levelled by the husband in his written statement that his wife was "unchaste" and had indecent familiarity with a person outside wedlock and that his wife was having an extramarital affair. These allegations, given the context of an educated Indian woman, were held to constitute "cruelty" itself.

39. It is the settled position of law that cruelty is a mixed question of law and fact. Cruel treatment can be inferred from the entire course of conduct and incidents showing display of temperament, emotion and perversion by one

spouse whereby one gives vent to his or her feelings, without intending to injure the other. Where there is proof of a deliberate course of conduct on the part of one, intended to hurt and humiliate the other spouse, and such a conduct is persisted cruelty can easily be inferred. Neither actual nor presumed intention to cause hurt to other spouse is a necessary element in cruelty reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in the case of ***Sujata Uday Patil* v. *Uday Madhukar Patil*, (2006) 13 SCC 272.**

40. Further, it requires to refer herein that the Hon'ble Apex Court in ***Joydeep Majumdar v. Bharti Jaiswal Majumdar, (2021) 3 SCC 742,*** has observed that while judging whether the conduct is cruel or not, what has to be seen is whether that conduct, which is sustained over a period of time, renders the life of the spouse so miserable as to make it unreasonable to make one live with the other. The conduct may take the form of abusive or humiliating treatment, causing mental pain and anguish, torturing the spouse, etc. The conduct complained of must be "grave" and "weighty" and trivial irritations and normal wear and tear of marriage would not constitute mental cruelty as a ground for divorce.

41. Thus, from the aforesaid settled position of law it is evident that "Cruelty" under matrimonial law consists of conduct so grave and weighty as to lead one to the conclusion that one of the spouse cannot reasonably be expected to live with the other spouse. It must be more serious than the ordinary wear and tear of married life.

42. Cruelty must be of such a type which will satisfy the conscience of the Court that the relationship between the parties has deteriorated to such an extent that it

has become impossible for them to live together without mental agony. The cruelty practiced may be in many forms and it must be productive of an apprehension in the mind of the other spouse that it is dangerous to live with the erring party.Simple trivialities which can truly be described as a reasonable wear and tear of married life cannot amount to cruelty. In many marriages each party can, if it so wills, discover many a cause for complaint but such grievances arise mostly from temperamental disharmony. Such disharmony or incompatibility is not cruelty and will not furnish a cause for the dissolution of marriage.

43. In the backdrop of the aforesaid settled position of law this Court is now re-adverting to the factual aspect of the instant appeal.

44. It is evident from the impugned order that the allegations specific to the ground of alleged cruelty has been made by the petitioner/plaintiff-husband in his examination-in-chief.

45. It is evident from the statement of the plaintiff /appellant (P.W-1) who has stated in para-5 of his evidence that after 3-4 month of marriage, the behaviour of his wife was very cruel and arrogant and she had not done domestic work, but at the same time in his cross-examination, he has stated that after marriage we live peacefully till 2011 and after service in year 2011 the cruelty was started. Thus, the aforesaid evidence of plaintiff in his chief-examination and cross-examination is contrary to each other.

46. In para-7 of chief-examination, he has stated that after panchayat of year 2018, her behaviour was not changed and she denied to made food, so my old age mother made food but this statement of the appellant husband has not been substantiated by the statement of his mother who has been examined as

P.W.4.and in her examination, she had stated that she has no knowledge about marriage, and she has further stated that she is not living much time with defendant/respondent and she had gone there for treatment and lived about 2-4 days only.

47. Thus, the aforesaid evidence of P.W.-4 is also contradictory from the evidence of his son plaintiff (P.W.-1) that his mother made food as his mother (P.W-4) has specifically stated that she did not live much time with defendant.

48. In para-10 of chief-examination, he has stated that in the month of July 2011 at 10:00 P.M. she came to house and started abusing to me and my parents. The neighbours were assembled there and she started beating to him with sleeper. In the next day morning, she went away with jewelry, cloth and Rs.-50,000/- which was kept for treatment of his mother.

49. But in his cross-examination, he has stated that he has not lodged any case of theft which has been mentioned in para-10 of chief-examination also. Therefore, there is no documentary evidence of the aforesaid allegation.

50. Further from perusal of impugned order it is evident that the learned family Court has taken note of plaintiff/appellant undertaking on 08.07.2021 in A.B.A. no.-2874/2020, dated-08.07.2021. The learned Family Court has noted that in para-13 of chief-examination, plaintiff/appellant had stated that after 2011, respondent/wife never lived with him and when he told about it, she refused flatly but at the same time in para-37 of his cross-examination, he has stated that she has given undertaking on 08.07.2021 in A.B.A. no.-2874/2020, dated-08.07.2021 that his wife lives with him. Thus, his chief-examination is also contradictory with his cross-examination.

51. Thus, from the aforesaid, it is evident from the testimony of the husband/appellant that nothing substantial has come in his testimony in order to substantiate the cruelty meted to him by hand of the respondent/wife. Further no cogent evidence has been produced on behalf of the plaintiff's/appellant side that there were any grave and weighty circumstances was arising which compelled the husband/appellant to pullout himself from matrimonial obligation, rather it is evident from the testimony of witnesses that the substances which have been stated is only related to normal wear and tear of life.

52. Thus, the appellant-husband although has taken the ground of cruelty meted to him by his wife but, in course of trial he has failed to establish the element of cruelty meted out to him at the hands of the respondent-wife as discussed hereinabove.

53. Further, it is evident from the impugned order that the learned Family Court has examined each and every aspect of the instant case and found that husband/appellant has miserably failed to establish the element of cruelty. For ready reference, the relevant paragraph is being quoted as under:

> *"(9-c). Now come to the present case.*
>
> *The plaintiff (P.W-1) has stated in para-5 of his evidence that after 3-4 month of marriage, the behaviour of his wife was very cruel and arrogant and she had not done domestic work.*
>
> *In his cross-examination, he has stated that after marriage we live peacefully till 2011. After service in year 2011 the cruelty was started. I have no any documentary proof regarding cruelty of my wife against me and my family members as stated in para-5 of the deposition.*
>
> *It means as per para-5 of chief-examination that occurrence is of year 2008 just after the marriage. But in para-17 of his cross-examination,*

he has stated that after marriage we live peacefully till 2011. After service in year 2011 the cruelty was started.

Thus, the aforesaid evidence of plaintiff in his chief-examination and cross-ex-amination is contradictory to each other.

In para-7 of chief-examination, he has stated that after panchayat of year 2018, her behaviour was not changed and she denied to made food, so my old age mother made food.

In para-24 of his cross-examination, he has stated that I had not given any in-formation to police station regarding cruelty of my wife after panchayat as stated in para-7 of the deposition.

In para-9 of chief-examination, he has stated that defendant was appointed as teacher in year 2011 and after that her behaviour was more cruel. In para-27 of his cross-examination, he has stated that I have no any document regarding cruelty as stated in para-9 of chief-examination. Again he told that I have filed the document.

But there is no any document regarding cruelty on the record. So, the plaintiff has not produced any documentary evidence regarding cruelty.

In para-10 of chief-examination, he has stated that in the month of July 2011 at 10:00 P.M. she came to house and started abusing to me and my parents. The neighbours were assembled there and she started beating to him with sleeper. In the next day morning she went away with jewellery, cloth and Rs.-50,000/- which was kept for treatment of my mother.

In para-28 of his cross-examination, he has stated that I have not lodged any case of theft which has been mentioned in para-10 of chief-examination.

In para-11 of chief-examination, he has stated that on 30.08.2011, again she came and beat to me and my mother and when my mother told to go to P.S. then she left the house.

In para-29 of his cross-examination, he has stated that I have proof regarding occurrence of beating dated 30.08.2011. I have not

mentioned the F.I.R. number of the said occurrence. I have not remembered the case number of the said occurrence.

But he has not mentioned the detail of said F.I.R. and he has also not filed any document about it.

In para-12 of chief-examination, he has stated that in year 2014, my father purchased a land in Sukhdeo Nagar, Ranchi, then she told that you transfer the land in my name otherwise I will implicate you and your family members in false case.

But said evidence is beyond his pleading. He has not pleaded aforesaid fact in his plaint. He has stated aforesaid fact in his evidence after thought and after considering the pleading of defendant.

In para-13 of chief-examination, he has stated that after 2011, she never lived with me and when I told about it, she refused flatly.

In para-37 of his cross-examination, he has stated that I have given undertaking on 08.07.2021 in A.B.A. no.-2874/2020, dated-08.07.2021 that my wife lives with me. In para-38, he has stated that my wife has not obeyed the order of the Hon'ble High Court. I tried to obey the order. At present when my wife comes, she lives with me.

It means the plaintiff has filed undertaking and he has stated that my wife lives with me. Even though when his wife comes, she lives with plaintiff. Thus his chief-examination is also contradictory with his cross-examination.

As per evidence of plaintiff (P.W.-1), defendant refused to made food then his old age mother made food.

The mother of plaintiff has been examined as P.W-4. In her cross-examination, she has stated that I have no knowledge about marriage, which has been mentioned in para-2 of chief-examination. In para-22, 1 am not living much time with defendant. I went there for treatment and lived about 2-4 days only. During this period, sometimes I had met with her daughter-in-law, and some time I had not met with her.

The aforesaid evidence of P.W.-4 is also contradictory from the evidence of his son plaintiff (P.W.-1) that his mother made food. His

mother (P.W-4) has specifically stated that she did not live much time with defendant. When she came for treatment, she lived only 2-4 days.

The plaintiff (P.W.-1) has stated in his evidence that defendant beat with sleeper in presence of neighbour.

The P.W.-2 & 3 are husband and wife and they were neighbour of plaintiff.

The P.W.-2 has stated in his chief-examination that in the year 2011 defendant beatto plaintiff with sleeper. In para-21 of cross-examination, he has stated that a quarrel was taken place in between them and police called them. That occurrence is about more than three years ago.

The deposition of said P.W.-2 was recorded on 22.09.2022. It means said oc-currence is of year 2019.

But the plaintiff has stated that said occurrence is of year 2011. Which is about more than 11 years ago. The child of said P.W.-2 was taken tuition from plaintiff.

The P.W.-3 has stated in para-8 of her chief-examination that defendant came in night in year 2013 and started quarreling and she beat to her husband with sleeper in presence of neighbour.

The aforesaid evidence of P.W.-3 is contradictory from her husband (P.W.-2).

Her husband has stated that the said occurrence is of year 2011 and P.W.-3 has stated that said occurrence is of year 2013.

So, the P.W.-2 & 3 are tutored witnesses and they are husband and wife.

The defendant has filed 29 photographs (Mark-X series), which shows that these photographs are related with family function, Grih Pravesh and picnic of year 2013, 2014, 2016, 2017 & 2018. In the said photographs, plaintiff and defendant are present with their family members.

The defendant has also stated in her cross-examination that some dispute was occurred with her husband in year 2016. He started much quarreling from 2017.

The D.W.-2 is son of plaintiff and defendant and he has stated that I have not seen any quarrel in between mother and father.

The defendant has also filed complaint petition dt. 04.09.2020, 31.03.2021, 05.07.2021 and 16.10.2021, which shows that defendant made complaint to Sukhdeo Nagar P.S., Ranchi, Dy.S.P., Kotwali, Ranchi and S.P. City, Ranchi regarding torture by plaintiff.

It is admitted fact that defendant wife has lodged a case U/s-498A of I.P.C. against the plaintiff in year 2020. That case has been lodged after filling of this divorce case and the said case is still pending.

As per above discussion, the evidence of plaintiff is contradictory itself. The evidence of mother of plaintiff (P.W.-4) is also contradictory from the evidence of plaintiff. The P.W.-2 & 3 are tutored witnesses and their evidences are also contradictory from the evidence of plaintiff. The plaintiff has not brought any documentary evidence regarding the cruelty. The mother of plaintiff has lodged a criminal case of Diaan Bisahi against defendant. The defendant has filed complaint petition to police officials regarding behaviour of plaintiff. The photographs (Mark-X) also shows that till 2018 defendant visited to her matrimonial house and she appeared in family functions of her matrimonial house. The plaintiff has also filed undertaking on 08.07.2021 that his wife lived with him. In his evidence, he (P.W.-1) has also stated that when his wife comes, she lives with me. The defendant is teacher in Kasturba Gandhi Awasiya Vidyalaya from 28.06.2011 and as per service condition she is residing in the hostel of said school and in leave she visited to her matrimonial house.

Thus, plaintiff has not able to prove that defendant wife has treated to plaintiff husband with cruelty. The plaintiff husband is taking advantage of his own wrong.

Accordingly, these issue no.-(4) & (5) are decided against the plaintiff."

54. Thus, it is evident that the appellant-husband although has taken the ground of cruelty meted to him by his wife but, in course of trial he has failed to establish the element of cruelty meted out to him at the hands of the respondent-wife as discussed hereinabove.

55. This Court after discussing the aforesaid factual aspect along with the legal position and adverting to the consideration made by the learned Family Judge in the impugned judgment has found therefrom that the issue of element of cruelty has been considered at length by the learned Family Judge.

56. On consideration of the evidence, the learned Family Judge has come to conclusion that the appellant-husband has miserably failed to establish the ground of cruelty against the respondent-wife, rather it is the appellant-husband, who is taking advantage of his own wrong as appellant husband in his examination -in-chief atpara 13 has stated that after 2011, his wife never lived with him however, in cross-examination at para 37, he stated that he has given undertaking on 08.07.2021 in A.B.A. No.2874/2020 dated 08.07.2021 that his wife lives with him.

57. This Court, on consideration of the finding arrived at by the learned Family Judge and based upon the aforesaid discussion, is of the view that the judgment and decree passed by the learned Family Judge is not coming under the fold of the perversity as defined by the Hon'ble Apex Court, since, the conscious consideration has been made as would be evident from the impugned judgment.

58. This Court, therefore, is of the view that the judgment dated 14.03.2023 and the decree dated 17.03.2023 passed in Original Suit No.39 of 2022 by the learned Family Court, Lohardaga, need no interference.

59. Accordingly, the instant appeal stands dismissed.

60. Pending I.As, if any, stands disposed of.

(Sujit Narayan Prasad, J.)

I Agree. **(Arun Kumar Rai, J.)**

(Arun Kumar Rai, J.)

Jharkhand High Court, Ranchi
Dated: 06/ 01/2026
KNR/ AFR
Uploaded on: 07/01/2026